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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

TUESDAY, September 11, 2012, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

The public portion of the meeting must be concluded in time to allow the public to vacate the building by 6:00 p.m.
(Free parking is available on the street or pay Ace Parking on the south side. Enter at the north entrance.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Ana Becker at (619) 238-6776 at least 24 hours before the meeting.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the August 2012 Regular Meeting (*Attachment A*)

3. PRESENTATION / TRAINING

- a) N/A

4. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)
- b) 09-059/Torbert

5. BOARD MEMBER COMMENTS

6. NEW BUSINESS

- a) N/A

7. UNFINISHED BUSINESS

- a) Sheriff's response to Board letter concerning prohibited access to key witness; re: CLERB Case #11-061.
- b) Business Process Reengineering (BPR) Update.
- c) Rules Committee Update - Chair Achenbach requests replacement of Eddie Castoria for this committee.
- d) Early Warning System(s) Case Tracking Update.

8. PUBLIC COMMENTS

- a) This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

9. CLOSED SESSION

- a) **Officer Discipline Recommendation** - Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation.
 - **11-062 / Pollack** (Sustained – Probation Officer 1)
 - **11-077 / Ledesma** (Sustained – Deputy 1)
 - **12-051 / Martinez** (Sustained – Deputy 1)
- b) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (13)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

11-042

1. Death Investigation/Suicide – Deputy 1 discovered inmate Qiongxian Wang Wu unresponsive at the Las Colinas Detention Facility.

Recommended Finding: Action Justified

Rationale: There was no complaint of misconduct in this case. During a security check Deputy 1 was alerted by a facility nurse that inmate Wu had been found in a bathroom hanging by her neck from a bathroom stall divider. Upon discovery of the non-responsive inmate Deputy 1 initiated medical emergency procedures and, along with the facility nurse, lowered inmate Wu to the floor and initiated lifesaving measures. Wu was transported to Sharp Grossmont Hospital where she was diagnosed with anoxic encephalopathy and given a grim prognosis. She was later transported to Sharp Memorial Intensive Care Unit where she was taken off life support and pronounced dead. The Medical Examiner certified the manner of Wu's death to be suicide, and the cause of death to be prolonged cardiopulmonary arrest and asphyxiation by hanging. The evidence showed that the actions of Deputy 1 were in compliance with applicable Sheriff Policies and Procedures.

11-090

1. Excessive Force – Deputies 1, 3, 4, 5, 7, 9, 10 and 11 punched and kicked the complainant multiple times.

Recommended Finding: Action Justified

Rationale: Deputies responded to a cover call to assist in the control of the complainant, who assaulted another inmate while the inmate was being transported to medical. Deputies 1, 3, 4, 5, 7, 9, 10 and 11 employed department approved Use of Force control compliance techniques including: knee strikes, holds, fist strikes and a head lock to counter the complainant's resistance and to control him. The level of force used was within policy, with the evidence showing that the alleged act did occur, but was lawful, justified and proper.

2. Excessive Force – Deputies 1, 3, 4, 5, 7, 9, 10 or 11 placed his/her thumb into the complainant's eye, after restraining him from attacking another inmate.

Recommended Finding: Not Sustained

Rationale: Deputies responded with varying degrees of department approved force to quell the assault of the complainant on another inmate. Deputies 1, 3, 4, 5, 7, 9, 10 and 11 deny having placed their thumb or finger into the complainant's eye, and the medical reports received regarding facial injuries are consistent only with the documented fist strikes to the complainant's face and eye area. There was insufficient evidence to either prove or disprove the allegation.

3. Misconduct/Procedure – Deputies 2 and 8 failed to document in a timely manner an incident that occurred on 07/08/2011.

Recommended Finding: Sustained

Rationale: Deputies 2 and 8 acted swiftly in preventing the complainant from attacking another inmate by impeding his path to the inmate and guiding him into his cell. They were later informed by Deputy 6 that the complainant was overheard telling the inmate that he was only following orders given by a gang leader in attempting to execute this assault. Neither deputy documented this incident in a timely manner. Per Detentions Policy F.09, Deputies 2 and 8 were required to document in JIMS, in a timely manner, any serious threat of physical harm to an employee, inmate or other person. Documentation of this incident was not accomplished until six days later and then at the direction of the Watch Commander. The evidence supports the allegation and the act was not justified.

4. Misconduct/Procedure – Deputy 6 failed to document in a timely manner an incident that occurred on 07/08/2011.

Recommended Finding: Action Justified

Rationale: Deputy 6 reported to Deputies 2 and 8 a conversation he overheard between two inmates, in which the rationale behind an attempted assault was provided: "I was following orders." According to the Watch

Commander on duty at that time, it was the responsibility of the deputies that observed the attempt, per Policy F.09, to document in JIMS the attempted assault, as well as the information provided to them by Deputy 6. The evidence shows the alleged act did occur, but was lawful, justified and proper.

5. Misconduct/Procedure –Deputies 7 and 9 did not properly escort a high-risk, green banded inmate.

Recommended Finding: Sustained

Rationale: Deputies 7 and 9 were assigned to escort a high-risk, green banded inmate to sick call. After releasing the inmate from his cell, Deputy 7 singularly escorted him out of the module to an adjacent walkway where he was to be chained for movement. Deputy 9 remained in the module to allow another high-risk inmate into the Dayroom, leaving a green banded inmate with only one deputy control. Deputy 9 released the high-risk inmate from his cell before securing the module, resulting in an attack on the green banded inmate before deputies were able to regain control. Deputies 7 and 9 failed to maintain two-deputy control of a high-risk, green banded inmate as required by Detentions Policy I.51, Inmate Movement, necessitating the Use of Force. The evidence supports the allegation and the act was not justified.

11-091

1. Criminal Conduct – Deputy 1 made false and/or unsubstantiated statements about the complainant while testifying against her in court.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied making false and/or unsubstantiated statements about the complainant while testifying against her in court. The complainant did not provide any evidence to substantiate her claims. Deputy 1 declared that her testimony was accurate and truthful. There was insufficient evidence to either prove or disprove the allegation.

2. Misconduct/Procedure - Deputy 1 tampered with the calculation of the complainant's jail time, causing her release date to be changed six (6) times.

Recommended Finding: Unfounded

Rationale: Deputy 1 denied tampering with the calculation of the complainant's jail time, reporting that her duties while at Las Colinas Detention Facility never included sentence calculation. Moreover, Sworn staff are not provided access to systems which would allow for modifying sentences and release dates. This is a function of non-sworn Detentions Processing Technicians, under the supervision of Detentions Processing Supervisors. The complainant's Sentencing Record revealed a number of modifications to her Arrest and Projected Release Dates. Each modification, however, was annotated with Superior Court direction to comply with appropriate Penal Code 4019 credits. The evidence shows that the alleged act did not occur.

11-093

1. Excessive Force – Deputies 8 and 12 aggressively forced the complainant toward the 6th floor housing holding cell on July 2, 2011 without reason.

Recommended Finding: Action Justified

Rationale: The complainant stated that force was used to move him from his cell toward a holding cell during a hygiene inspection. The complainant was classified a Level 6-Maximum Security inmate and had a history of prior assaultive actions toward staff. As per San Diego Central Jail Green Sheet Policy and Procedure I.51.C2, Orange and Greenbanders, Deputy 8 handcuffed the complainant through the food flap prior to a hygiene inspection and escorted him out of the cell. The complainant felt the inspection was taking too long, became irritated, and disrupted the deputies' inspection. In an effort to de-escalate the situation Deputies 8 and 12 took hold of the complainant's left and right arms, and moved him toward a holding cell. Deputies 8 and 12 denied that force was necessary to escort the complainant; however, the complainant did tense up on a number of

occasions and told Deputy 12 that he was, "...going to kick his ass." Because the holding cell and the recreation yard were occupied the complainant was temporarily placed in the 6th floor Staging Area. The evidence showed that the alleged act did occur but was lawful, justified and proper.

2. Excessive Force – Deputy 12 grabbed hold of the complainant and used his closed fist to hit the complainant in the face.

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 12 used excessive force by hitting him in the face with a closed fist. Evidence showed that the complainant had been positioned facing the wall in the 6th floor Staging Area when he pulled away from Deputy 12 and said, "I'm going to fuck you up." The complainant slipped his left hand out of the handcuff, turned, and struck Deputy 12 with his right fist and then with his left fist causing injury. Deputy 12 engaged the complainant to overcome the resistance and delivered multiple strikes to the face, upper and lower body, arms and legs, in order to regain control. The complainant continued the assault on Deputy 12, striking him an additional 6-8 times. The assaultive actions of the complainant required Deputy 12 to take aggressive action as he attempted to regain control using methods authorized by Sheriff's Detention Facilities Services Manual of Policies and Procedures, I.89, Use of Force, and Department Policy and Procedures, Use of Force Addendum. The evidence showed that the force used was necessary and reasonable to overcome the complainant's active resistance, and was lawful, justified and proper.

3. Excessive Force – Deputies 1, 2, 3, 5, 8, 10, and 12 used unnecessary force while handcuffing the complaint causing injury.

Recommended Finding: Action Justified

Rationale: The complainant defeated the security of the handcuffs and assaulted Deputy 12. Deputies 1, 2, 3, 5, 8, and 10 responded to a cover call and assisted Deputy 12 in regaining control of the assaultive complainant. Deputies employed department approved Use of Force control compliance techniques which included: using body weight; striking the complainant with hands, fists, elbows, knees and feet; striking with closed fists, and using the carotid restraint, in order to regain control of the complainant. Once the complainant was controlled Deputies 1, 2, 8 and 12 handcuffed the complainant. Wrist and leg chains were applied prior to placing the complainant on a gurney to transport him for medical evaluation and then back to a cell. All deputies documented their force used in subduing the complainant. The evidence showed that force used to handcuff the complainant was necessary and reasonable to overcome the complainant's active resistance, and was lawful, justified and proper.

4. Excessive Force – Deputies 1, 2, 6, 9, and 13 used unnecessary force while un-handcuffing the complaint causing injury.

Recommended Finding: Action Justified

Rationale: The complainant was transferred on a gurney from the Staging Area to Medical for evaluation then moved to a cell. After arrival at the cell, Deputies 1, 2, 6, and 13 lifted the complaint from the gurney and placed him on the cell floor. Leg chains were removed and the complainant was helped onto his feet so that he could be escorted back to the door to remove the handcuffs. Deputy 9 attached one end of the leg chain to the handcuff and the other end through the food flap and secured to the cell door. The complainant was compliant at that time. When Deputy 2 instructed the complainant to put his hands through the food flap so he could be unhandcuffed the complainant suddenly ran toward the back of the cell. Throughout the remainder of the unhandcuffing procedure the complainant resisted the actions of the deputies. Deputies eventually removed the left handcuff. Because the complainant had resisted the procedure the handcuff key broke off in the right handcuff as deputies attempted to regain control of the complainant. It was necessary to cut the right handcuff off with bolt cutters. Deputies employed department approved Use of Force control techniques which included: use of a tactical handcuff lead for safe removal of handcuffs through a cell door food flap, hand controls to pull the leg chains, body weight to hold the food flap closed, wrist flex control to control the complainant's wrists, and a one-second burst of Oleoresin Capsicum. All deputies documented the force used in subduing the complainant. The evidence showed that force used to remove the complainant's handcuffs was necessary and reasonable to overcome the complainant's active resistance, and was lawful, justified and proper.

5. Misconduct/Medical – Medical personnel failed to properly evaluate the complainant.

Recommended Finding: Summary Dismissal

Rationale: As CLERB has no jurisdiction over medical issues, this allegation has been referred to the Sheriff's Department for further investigation. However, it should be noted that deputies took the complainant to medical immediately following the initial incident he was treated and approved to return to housing. After the second force incident the medical personnel observed the complainant through the cell door for security purposes. The complainant refused to be seen by medical on July 3rd and 4th and Medical conducted a follow-up exam on July 5, 2011. The Review Board lacks jurisdiction.

6. Misconduct/Procedure – Unidentified deputies failed to process the complainant's grievance form in accordance with department policy on July 4, 2011.

Recommended Finding: Unfounded

Rationale: The complainant stated that he filed a grievance on July 4, 2011 which concerned medical evaluation after the July 2, 2011 incident. There is no evidence to demonstrate that the grievance was filed. The complainant filed a grievance on July 5, 2011 regarding medical evaluation and was informed on July 7, 2011 that his complaint was more appropriately filed as an Inmate Request rather than a grievance. He filed an Inmate Request on July 8, 2011 and was told he was scheduled for a medical appointment on July 13, 2011. The evidence shows that the alleged act on July 4, 2011 did not occur.

7. Excessive Force – Deputies 4, 7, 11, and 14 caused the complainant to be shocked twice with an "arm bandit" on August 17, 2011.

Recommended Finding: Action Justified

Rationale: The complainant was being transported from Vista Detention Facility to the South Bay Court Facility. Because of his classification the complainant was required to be transported to/from court with an electronic immobilization device. The complainant reviewed and signed the required electronic immobilization device notification document prior to deputies placing the device on his arm. The complainant became argumentative and aggressive during the clothing exchange, turning to face deputies and not complying with direction. Deputies 4 and 11 advised the complainant multiple times to face the wall and remove his clothing. The complainant did not comply, turned to face the deputies at which time Deputy 14 deployed the Bandit. After the initial Bandit charge subsided the complainant attempted to grab at the Bandit and remove it. Deputy 14 deployed the Bandit a second time. The evidence showed that force used transporting the complainant to court was accomplished in accordance with Department Use of Force Addendum and Detentions Inmate Movement Policy; the alleged act did occur but was lawful, justified and proper.

11-097

1. False Arrest – Deputy 1 arrested the victim in a domestic violence incident.

Recommended Finding: Action Justified

Rationale: Accounts of this incident by the alleged victim and suspect are in conflict. It is departmental practice to arrest the primary aggressor, or the person determined to be the most significant assailant. Dual arrests are not prohibited, but are discouraged and utilized only as a last resort when all other investigative efforts fail. Deputy 1's crime report cited the allegations, injuries, initial 911 call, and the complainant's uncooperativeness with dispatch, as the factors which led to her arrest. The evidence shows the deputy's conduct was lawful, justified and proper.

2. Misconduct/Procedure – Deputy 1 did not properly investigate a report of domestic violence by refusing to take the complainant's statement until after her arrest.

Recommended Finding: Action Justified

Rationale: Deputy 1 was dispatched to the incident site and interviewed the victim who contacted 911 after the

complainant fled the scene. Another deputy contacted and detained the complainant until Deputy 1 placed her under arrest and transported Garcia to the station for processing. Once in custody, the complainant was advised of her Miranda rights and asked for a statement at which time she refused. Deputy 1's conduct was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 1 failed to read the complainant her Miranda rights upon arrest.

Recommended Finding: Action Justified

Rationale: There is no requirement for mirandizing a suspect at time of arrest. Miranda warnings are required when a suspect is in custody and being interrogated. Deputy 1 read the complainant her Miranda rights at the station during processing where she stated she understood her rights but was unwilling to discuss this matter. The evidence shows Deputy 1's conduct was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 1, while transporting the complainant to Las Colinas, took her to a crime scene potentially placing her life in danger.

Recommended Finding: Action Justified

Rationale: After fleeing the domestic violence scene, the complainant was detained and transported back to the original site in another deputy's vehicle. There, she was placed into Deputy 1's patrol vehicle. En route to the station, Deputy 1 drove to another deputy's location to retrieve the complainant's property from his patrol vehicle. The deputy was engaged in official duties at a crime scene and could not leave his post to meet Deputy 1. The crime had already occurred and the crime scene was secure. The evidence shows the alleged act did occur but was lawful, justified and proper.

5. Misconduct/Procedure – Deputy 1 texted, spoke on his cell phone, and discussed personal issues with a non-uniformed passenger while transporting the complainant.

Recommended Finding: Not Sustained

Rationale: Deputy 1 admittedly contacted another deputy concerning the complainant's property. The non-uniformed passenger was a ride-along, who subsequently became a deputy and is currently employed by the Sheriff's Department. She corroborated Deputy 1's statements of a telephone call being made for official purposes. Deputies are permitted to utilize mobile devices during the performance of their official duties. Disclosure of telecommunication records to any entity other than law enforcement or prosecuting attorneys without written consent of the subscriber or an order signed by a judge is prohibited by law and therefore CLERB did not review Deputy 1's personal cell phone records. There was insufficient evidence to either prove or disprove the allegation.

6. Misconduct/Retaliation - Deputy 1 arrested the complainant for a misdemeanor violation, but then changed it to a felony.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied this allegation, but acknowledged the complainant's behavior as belittling, sarcastic, rude and disrespectful. The Crime Report listed the complainant's felony charges as 243(E)(1), Battery: Spouse/ex spouse/date/etc and 236, False Imprisonment. The District Attorney's office subsequently dropped the charges against the complainant due to "No independent corroboration/lack of credible corroboration." The complainant and Deputy 1's statements concerning this allegation are in conflict and there is insufficient evidence to either prove or disprove the allegation.

7. Criminal Conduct - Deputy 1 and/or Sheriff's Department personnel did not follow established protocol in a domestic violence incident.

Recommended Finding: Not Sustained

Rationale: The complainant's written statement outlines a history of domestic violence between herself and the alleged victim in this incident; however, all went unreported and are uncorroborated. The complainant also placed a great deal of culpability on the responding deputy for not taking her statement at the scene of the incident. Sheriff's Dispatch spoke with the complainant three times and were unable to assist/understand her.

When the complainant was given the opportunity to provide a statement she refused. A review of Sheriff's Policy & Procedures, the Patrol Manual, Case Law and the Penal Code concerning Domestic Violence laws, yielded no violations by involved personnel.

11-107

1. Excessive Force – Deputies 1 and 2 awakened the complainant from a seizure by smacking him in the face.

Recommended Finding: Not Sustained

Rationale: Deputies 1 and 2 found the complainant lying motionless on his cell floor. Deputy 1 knocked and banged on his cell door several times and yelled the complainant's name, but he was unresponsive. The deputies entered the complainant's cell to check on his welfare and tapped him on his face and arm in an attempt to awaken him. The complainant awakened panicked and disoriented and began hitting and kicking the deputies. Both deputies denied smacking the complainant in the face and there are no witnesses or evidence to refute their assertions. There was insufficient evidence to either prove or disprove the allegation.

2. Excessive Force – Deputy 2 hit the complainant in the face with handcuffs and choked the complainant until he was "spitting up blood."

Recommended Finding: Action Justified

Rationale: Deputy 2 denied hitting the complainant with handcuffs or choking the complainant during this incident requiring Use of Force. Deputy 2 reported that he utilized soft hand control techniques by applying downward pressure to the complainant's head with his hands to keep him from getting off the cell floor, and to counter the complainant's assaultive behavior. Medical reports show multiple contusions on the face and body of the complainant caused by Deputy 1's department approved, Use of Force compliance techniques (hand, knee and foot strikes), but with no indications that the complainant was hit with an object or choked. The evidence shows that force was used to gain compliance, but was lawful, justified and proper.

3. Excessive Force – Deputy 1 kicked the complainant in the ribs and hips.

Recommended Finding: Action Justified

Rationale: Deputies 1 and 2 struggled vigorously with an aggressive and assaultive inmate, who hit and kicked Deputy 1 after being awakened from a seizure. Deputy 1 employed two knee strikes and two fist strikes to the left rib area of the complainant's body in order to overcome the complainant's resistant and assaultive behavior. When these department approved, Use of Force control compliance techniques proved to be ineffective in gaining control of the complainant, Deputy 1 executed a department approved foot strike to the complainant's rib area to gain compliance and control. Additional deputies arrived on scene to assist, and they were able to gain control of the complainant. The evidence shows the alleged act did occur, but was lawful, justified and proper.

4. Misconduct/Procedure – Medical staff failed to provide a full medical evaluation for the complainant until three days after his injuries were sustained.

Recommended Finding: Summary Dismissal

Rationale: Complaints lodged against medical staff are not within the jurisdiction of the Review Board and are referred to the Sheriff's Department for further investigation.

5. Misconduct/Sexual Harassment – Deputy 1 grabbed his crotch and told the complainant to suck his dick.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied that he grabbed his crotch and told the complainant to suck his dick. Absent witnesses or video footage of this alleged gesture and statement, there was insufficient evidence to either prove or disprove the allegation.

1. Misconduct/Discourtesy – Deputy 2 spit on the complainant three times in response to the complainant’s verbal abuse.

Recommended Finding: Unfounded

Rationale: The complainant was transported to UCSD Medical Center for treatment of smoke inhalation after he started a fire in his cell at the San Diego Central Jail. He stated Deputy 2 spit on him three times during transport to UCSD Medical Center. Deputy 2 denied spitting on the complainant at any time. Deputy 3 and Rural Metro medical staff stated that at no time did Deputy 2 spit on the complainant. The evidence shows that the alleged act or conduct did not occur.

2. Excessive Force – Deputy 2 grabbed the complainant’s genitalia until he screamed.

Recommended Finding: Unfounded

Rationale: The complainant stated that during transit to the hospital Deputy 2 grabbed him with such force as to cause him to scream. Deputy 2 denied grabbing the complainant’s genitalia at any time. Deputy 3 and Rural/Metro medical staff stated that at no time did Deputy 2 grab the complainant. Electronic monitoring in the ambulance did not reveal any outbursts from the complainant during transit. The evidence shows that the alleged act or conduct did not occur.

3. Misconduct/Discourtesy – Deputy 3 told the complainant to “stop screaming like a bitch” in response to pain inflicted by Deputy 2.

Recommended Finding: Unfounded

Rationale: Deputy 3 denied yelling at the complainant. Deputy 2 and Rural/Metro medical staff stated that at no time did Deputy 3 yell as alleged during transit. Electronic monitoring in the ambulance did not reveal any yells or screams from the complainant; nor was Deputy 3 heard to yell at the complainant during transit to UCSD Medical Center. The evidence shows that the alleged act or conduct did not occur.

4. Excessive Force – Deputy 3 tightened the complainant’s hand and ankle cuffs causing bleeding.

Recommended Finding: Unfounded

Rationale: Deputy 3 denied tightening the complainant’s hand and ankle cuffs for any reason. Photographic evidence of the complainant at UCSD Medical Center did not reveal any bruising or cuts to his wrists or ankles. UCSD Medical Center and San Diego Sheriff medical records did not reveal any claims of injury or medical treatment to the complainant’s wrists or ankles. The evidence shows that the alleged act did not occur.

5. Excessive Force – Deputy 3 pulled down on the complainant’s ankle chains causing “unbearable pain.”

Recommended Finding: Action Justified

Rationale: The complainant stated that Deputy 3 used force on him causing unbearable pain. The complainant became uncooperative with hospital staff when he was told that x-rays were required because of smoke inhalation and he repeatedly refused to accept treatment. The complainant kept trying to sit up on the gurney and would not follow direction of deputies or hospital staff which caused Deputies 1, 2, and 3 to use force to maintain compliance. Deputy 1 took control of his left arm, Deputy 2 controlled his right arm, and Deputy 3 grabbed the complainant’s ankles. The complainant attempted to kick deputies at which time Deputy 3 placed his hands on the complainant’s leg chains and applied a downward pressure to prevent him from kicking deputies and medical staff. The use of force was objectively reasonable in the defense of deputies and medical staff to overcome the complainant’s resistance. The evidence shows the alleged act did occur but was lawful, justified and proper.

6. Excessive Force – Deputy 2 punched the complainant in the mouth causing a busted lip and loose teeth in response to the complainant’s resistance.

Recommended Finding: Action Justified

Rationale: Deputy 2 denied hitting the complainant in the mouth. The complainant had been uncooperative with medical personnel and continued to resist deputies. The complainant twice spit into Deputy 2's face, bit Deputy 2's wrist drawing blood, and yelled that he had AIDS and had infected Deputy 2. Deputy 2 responded to the assaultive actions by placing a towel over the complainant's face, pinning his head to the gurney to prevent him from spitting at, or biting the deputies again. UCSD medical staff sedated the complainant because of his violent behavior. The level of force used by Deputy 2 was in compliance with Department Use of Force procedures. Photographic evidence and medical documentation did not reveal any injuries or subsequent treatment to the complainant's lip or mouth. The evidence showed that the force used was necessary and reasonable to overcome the complainant's assaultive actions, and was lawful, justified and proper.

11-112

1. Excessive Force/Less Lethal Munitions – Deputy 1 shot the mentally ill complainant three times, causing extensive damage to her hand.

Recommended Finding: Action Justified

Rationale: The inebriated complainant called 911 for assistance stating she was suicidal and had stabbed herself with a knife. Deputies approached and saw Maston holding a knife to her stomach. Maston was repeatedly ordered to drop the knife but refused and instead thrust and rotated the knife blade into her stomach. Deputy 1, as authorized by Sheriff's Policy and the use of Force Guidelines manual, utilized a less-lethal beanbag Supersock shotgun three times, striking the complainant until she dropped the knife. The complainant suffered a self-inflicted 4-inch stab wound and abrasions/bruising to her stomach, chest and finger from the munitions. The force used by Deputy 1 was reasonable and necessary to effect the lawful detention of a suicidal female in possession of a knife.

11-144

1. Misconduct/Procedure - Deputy 1 prematurely closed investigation into the complainant's claims of drugging, rape, kidnapping, and domestic abuse.

Recommended Finding: Action Justified

Rationale: The complainant reported that Deputy 1 closed her case without resolution. Deputy 1 investigated multiple incidents in multiple jurisdictions without revealing any witnesses or evidence to confirm the complainant's allegations. At the complainant's request Deputy 1 presented his investigation to the San Diego County District Attorney and the District Attorney declined prosecution. A review of Sheriff's Policy & Procedures, the Detective Procedures Manual, Case Law and the Penal Code yielded no violations by involved personnel. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

12-002

1. Death Investigation/Suicide – Deputy 1 discovered inmate Shane Hipfel unresponsive at the San Diego Central Jail Facility.

Recommended Finding: Action Justified

Rationale: There was no complaint of misconduct in this case. During a security check Deputy 1 found Hipfel with his head over the bowl of the cell's toilet with his hands on either side of the toilet on the floor. Deputy 1 attempted to get the attention of Hipfel but was unable to do so. Hipfel fell to the right of the toilet with his head hitting the floor. Deputy 1 initiated medical emergency procedures and lifesaving measures. Paramedics arrived and Hipfel was transported to UCSD Medical Center further treatment. On January 7, 2012 family members consented to have UCSD Medical staff remove him from life support and he was pronounced dead. The Medical Examiner certified the manner of Hipfel's death to be suicide, and the cause of death to be

anoxic/ischemic brain injury due to resuscitated cardiopulmonary arrest and drowning. The evidence showed that the actions of Deputy 1 were in compliance with applicable Sheriff's Department Policies and Procedures.

12-020

1. Misconduct/Procedure – The Sheriff's Department failed to return the complainant's property upon release from the Vista Detention Facility.

Recommended Finding: Not Sustained

Rationale: The Sheriff's Department denied the complainant's claim citing his signature on an outgoing property receipt. The complainant signed an Inmate Personal Property Receipt verifying, "I have received all of my personal property at release from the Facility," to include "False Teeth," he says, in reference to a second pair brought into the facility after loss of the first pair. A Detentions Processing Technician confirmed false teeth were placed in the complainant's garment bag on 1/13/12, and a review of Clark's entire inventory history resulted in negative results for the dentures being given to the complainant while in custody. Based on the complainant's account, the dentures he removed and placed into a pocket during the booking process, were never released to him while in custody or upon his exit from custody. Medical appliances, such as dentures, are normally processed through the medical division and/or are the responsibility of non-sworn personnel. CLERB was unable to examine the complainant's medical records without his authorization. There was insufficient evidence to either prove or disprove the allegation.

12-043

1. Illegal Search or Seizure/Home – Deputy Probation Officers 1 and 2 conducted a Fourth Waiver Search of the complainant's home.

Recommended Finding: Action Justified

Rationale: The complainant's son was granted three years formal probation in May 2011 and documentation provided by the probationer identified his mother's home as his residence. A condition of the probation required the probationer to submit their person, property, residence, vehicle, personal effects, computers and recordable media to search at any time, with or without warrant, and with or without reasonable cause, when required by the probation officer. Deputy Probation Officers 1 and 2, went to the last reported address of the probationer, and acted within Probation Department Adult Field Services Manual Policy 16.15, Search and Seizure, in executing a Fourth Amendment Waiver Search of the complainant's home. The evidence showed that the alleged act did occur, but was lawful, justified and proper.

12-077

1. Misconduct/Discourtesy - Deputy 1 was discourteous to the aggrieved during a traffic stop.

Recommended Finding: Summary Dismissal

Rationale: Involved deputies could not be identified based on the descriptions provided or through Department records. There is insufficient basis to investigate this allegation further.

2. Misconduct/Harassment -Deputy 1 harassed the aggrieved during a traffic stop.

Recommended Finding: Summary Dismissal

Rationale: Involved deputies could not be identified based on the descriptions provided or through Department records. There is insufficient basis to investigate this allegation further.

3. Misconduct/Intimidation - Deputy 1 intimidated the aggrieved during a traffic stop.

Recommended Finding: Summary Dismissal

Rationale: Involved deputies could not be identified based on the descriptions provided or through Department records. There is insufficient basis to investigate this allegation further.

4. Discrimination/Gender - Deputy 1 exhibited gender bias during a traffic stop.

Recommended Finding: Summary Dismissal

Rationale: Involved deputies could not be identified based on the descriptions provided or through Department records. There is insufficient basis to investigate this allegation further.

End of Report